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COUNCIL DECISION

of 19 December 1972

laying down certain transitional measures for the progressive standardisation of the import terms of Member States as regards third countries

(72/455/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 115 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas conditions should be laid down, in the form of transitional measures, under which the Member States may make amendments to import terms as regards third countries, pending the establishment of autonomous or conventional common import terms;

Whereas under the Treaty and the Council Decision of 16 December 1969¹ on the progressive standardisation of agreements concerning commercial relations between Member States and third countries and on the negotiation of Community agreements, amendments of this nature, except in exceptional cases laid down in Title III of this Decision, may not be the subject of negotiations or agreements with the third countries in question, and therefore may only be decided in an autonomous manner;

Whereas in order to avoid autonomous amendments to the import terms of the Member States constituting obstacles to the implementation of the common commercial policy and harming the interests of the Community or of one of its Member States, such amendments should be subject to prior consultation and if necessary to an authorisation procedure;

Whereas provision should be made, by way of exception and for a limited period, for a more

flexible procedure for the measures envisaged by the Member States with regard to third State-trading countries with which the Member States may still negotiate commercial agreements under the conditions set out in Title III of Council Decision of 16 December 1969;

HAS ADOPTED THIS DECISION:

Article 1

A Member State envisaging any autonomous amendments to its import terms with regard to a third country or group of third countries shall so inform the Commission and the other Member States.

Article 2

1. At the request of the Commission or of a Member State, the measures referred to in Article 1 shall be subject to prior consultation with the other Member States and the Commission within the Select Committee set up by the Council Decision of 9 October 1961² concerning a consultation procedure in respect of the negotiation of agreements concerning commercial relations between Member States and third countries and in respect of changes in the state of liberalisation in relation to third countries.

2. The purpose of the consultation shall be to examine the possibility of establishing common import terms for the third country and the product in question and, failing this, to coordinate Member States' terms to ensure the proper functioning and strengthening of the Common Market and the gradual introduction of common import terms.

¹ OJ No L 326, 29.12.1969, p. 39.

² OJ No 71, 4.11.1961, p. 1273/61.

3. If a Member State or the Commission considers that the measures envisaged by the Member State concerned would harm the fundamental interests of the Community or one of its Member States, the consultation shall include an examination of the economic and commercial situation of the products involved.

4. If the Commission does not request consultation within five working days after receiving the notification referred to in Article 1, and has received no requests for consultation from Member States by the end of that period, it shall notify the Member State concerned, which may then put the proposed measure into effect.

In all other cases, the consultation procedure shall commence within five working days from the end of the period provided for in the preceding paragraph.

Article 3

1. If after consultation no objection has been raised by the other Member States or by the Commission, the Commission shall forthwith notify the Member State concerned, which may put the measure into effect immediately.

2. In other cases, the Member State concerned may not put the proposed measure into effect until three weeks after the start of consultation.

3. If, within this three-week period, the Commission submits to the Council, under Article 113 of the Treaty, a proposal meeting the objections raised, the proposed measure may not be put into effect until the Council has acted.

However, until 31 December 1974, the Member State concerned may by way of exception put the proposed measures into effect in respect of one or more of the countries specified in Article 9 of the Council Decision of 16 December 1969 when the Council has not acted on the proposal from the Commission within five weeks from the submission of the proposal.

Article 4

1. In urgent cases, liberalisation may be withdrawn or a quota abolished or reduced without prior consultation.

2. When a quota has been exhausted and the economic requirements of a Member State call for additional imports from the country or countries benefiting from the quota, the Member State concerned may, in urgent cases, open additional import facilities up to a maximum of 20% of the quantity or value of the exhausted quota.

3. In exceptional cases when a Member State contemplates import facilities in respect of one of the third countries referred to in the second paragraph of Article 3 (3) for a product for which there is no import quota or liberalisation, Articles 1, 2 and 3 shall apply to the extent that the proposed imports would exceed by more than 20% the highest quantity or value reached by imports of the same product from the country concerned in any one of the past three years.

4. If the proposed imports do not exceed the limit set in paragraph 2 and 3 above, the Member State shall later notify the Commission, which shall inform the other Member States, of the total amount of the licences granted; this notification may be in the form of a statement to be submitted half-yearly, containing a breakdown by product and by third country of origin. In the case covered by paragraph 3, the same shall apply to authorisations for imports from other third countries granted for non-liberalised products for which no quotas are opened.

5. At the request of any Member State or of the Commission, subsequent consultation under the terms of Article 2 shall be held on measures taken by a Member State under this Article.

Article 5

Once the opening of Community negotiations with a third country has been authorised, Member States may no longer put the proposed measures into effect in respect of this country without authorisation by the Council, acting on a proposal from the Commission, in accordance with Article 113 of the Treaty.

Prior notification as stipulated in Article 1 shall be obligatory in all cases of quota increases or measures of the kind referred to in Article 4 (2) and (3). Prior authorisation by the Council shall be necessary only if objections are raised by a Member or by the Commission during any consultation that may be requested within the period stipulated in Article 2 (3).

Prior notification shall also be obligatory for the withdrawal of liberalisation or the abolition or reduction of quotas. However, these measures may be taken without prior authorisation by the Council. If objections are raised by a Member State or by the Commission during any subsequent consultation held under Article 2, the Commission shall submit a proposal to the Council in accordance with Article 113 of the Treaty.

Article 6

Any amendments to this Decision necessary to complete standardisation of Member States' import terms shall be adopted not later than 31 December 1974 in accordance with the procedure laid down in Article 113 of the Treaty.

Article 7

The Council Decision of 9 October 1961 shall remain valid insofar as it does not conflict with this Decision.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 19 December 1972.

For the Council

The President

T. WESTERTERP